

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN AUBYN A. CURTISS**, on March 27, 2001
at 7:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Aubyn A. Curtiss, Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Douglas Mood, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Joe McKenny
Rep. Gary Forrester (D)
Rep. Alan Olson (R)
Rep. Trudi Schmidt (D)
Rep. Bob Story (R)

Members Excused: Rep. Roy Brown (R)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)

Members Absent: None.

Staff Present: Chris Ahner, Committee Secretary
Stephen Maly, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: SB 446; SB 424; SB 19; SB 491

EXECUTIVE ACTION ON SB 446

Motion: REP. BROWN moved that SB 446 BE CONCURRED IN.

Discussion:

REP. DEE BROWN said that SENATOR DePRATU had hoped that the committee would hear SB 336 before they heard SB 446, but it appears that they aren't going to be able to.

REP. STORY said that the committee had SB 325 scheduled a week ago, but the sponsor wasn't able to come. That bill basically allows co-ops to compete in the over 3500 market, but also says that if they do that they pay the same tax rate as an industrial.

Gary Weins explained that SB 325 authorizes electric cooperatives direct ownership of poles and wires distribution systems in cities larger than 3500. It also allows for creation of different classes of coop members.

REP. DEE BROWN asked if that would take care of what they are working on in SB 446 as far as Flathead Electric. Mr. Weins said that it would resolve that situation.

REP. STORY asked if it dealt with the tax situation at all. Mr. Weins said that it does require them to pay the same taxes as industrial utilities.

REP. DEE BROWN said that she was upset when her cooperative bought into a larger system. When she looked into the Flathead distribution of power through Flathead Electric, she learned that under the old agreement 2/3 of Flathead Electric is purchased from Bonneville and 1/3 is from market. With ENI it will be 50 - 50. That is where her problem is. She is not happy with this.

REP. FORRESTER asked if REP. DEE BROWN felt that, as a result of the first ENI, that her power rates will rise in Flathead Electric. REP. BROWN said that is exactly her concern.

REP. CURTISS said that they had a statement from the PSC that said that "since MPC and ENI acquired the Pacific Corp. property, the PSC has worked closely with the purchasers as they improve service, including undertaking a four million dollar service upgrade program. While service quality and reliability are increasing, MPC and ENI face ever higher wholesale power prices."

REP. ROY BROWN said that the person that turned the letter in that **REP. CURTISS** had just read from had said that Bob Rowe of the PSC gave this letter. It is written on PSC letterhead. At the bottom it says that the PSC has taken no position on this bill. He finds that to be extremely misleading.

REP. FORRESTER asked a question of Mr. Weins. In the business world today, it seems to him like subsidiaries, like ENI, shouldn't be divested. Why not just sell them? **Mr. Weins** replied that if it is not rolled into the cooperative, which is what they are seeking to do, then those people in those areas will not be eligible to receive the lower cost Bonneville power.

REP. OLSON pointed out that this is an opportunity to help a few people. He has seen time after time where you get in a position where it looks like somebody might get out, the rest of us are going to pull them right back in. This isn't going to benefit Billings, but if it did, he would vote for it just the same as he is going to vote for it now.

REP. DEE BROWN asked, if SB 325 and SB 446 both pass, will they go to a conference committee. **REP. STORY** said that he is sure that there will be coordinating language placed in SB 325 that will supercede this bill.

REP. FORRESTER asked for explanation of how conference committees happen. **REP. STORY** explained the process.

REP. STORY called for the question.

Vote: Motion **carried unanimously.**

EXECUTIVE ACTION ON SB 491

Motion: **REP. BROWN** moved that **SB 491 BE CONCURRED IN.**

Motion/Vote: **REP. STORY** moved **AMENDMENT TO SB 491.** Motion **carried unanimously.**

Motion: **REP. BROWN** moved that **SB 491 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. SCHMIDT said that this was a committee bill from the Senate. She had a bill on revising telemarketing laws, and that was tabled, but there was a committee bill and this is the result.

Vote: Motion **carried unanimously.**

EXECUTIVE ACTION ON SB 424

Motion: REP. STORY moved that **SB 424 BE CONCURRED IN.**

Discussion:

REP. DEE BROWN pointed out that there was only one proponent and one opponent. The opponent claimed that SB 243 and this bill are in conflict. Is that right? **Mr. Maly** said that was correct.

REP. BROWN asked for clarification on SB 243. REP. CURTISS said that they are waiting for amendments on 243.

REP. STORY said that SENATOR GLASER was the only proponent and there weren't many opponents because he feels that everyone assumed that this bill wasn't going to go anywhere. SENATOR GLASER made a good argument for the bill and that was that if you are going to have a default supplier that is truly a default supplier, which is just a broker of the commodities, then you have to have the opportunity for that person to make a profit on his work. If you are going to proceed down the path that we are proceeding down, then the only default supplier you will ever have is the person that owns the lines and the poles. If that happens then you will never be able to have another entity be a default supplier because the incumbent will have the advantage in that they are making a profit somewhere in their system, and the other default supplier would not. He is in support of the concept that the default supplier should see a profit on the transaction because it does allow the opportunity for another default supplier to get started. He would like to put an amendment on so that this would make it to a conference committee.

REP. FORRESTER asked REP. MOOD if this would run counter to the lifeline rate. REP. MOOD said that it would seem to conflict. There is also some language in this bill that was stricken in his bill.

REP. CURTISS said that the conflict is not a reality until we take action on the final bill, but it is in direct conflict with REP. MOOD's bill.

Mr. Maly commented that REP. MOOD's bill that passed yesterday does provide, in the just and reasonable criteria, 'that the commission uses to set the rates, a reasonable rate of return'.

REP. FORRESTER asked, if there is a 'just and reasonable rate' of

HOUSE COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND
TELECOMMUNICATIONS

March 27, 2001

PAGE 5 of 6

return, it's not necessarily a just and reasonable rate. The lifeline rate required them to sell on the bills past approved and until November 2001. This would take the lifeline rate out. He would have no problem tabling this bill and let REP. MOOD's bill work its way through the process. The committee needs to send out one signal. If they pass this bill it will send out two conflicting signals.

Motion/Vote: REP. FORRESTER moved that SB 424 BE TABLED. Motion carried 10-2 with Olson and Story voting no.

EXECUTIVE ACTION ON SB 19

Motion/Vote: REP. STORY moved that HB 19 BE TABLED. Motion carried 10-2 with Juneau and Matthews voting no.

HOUSE COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND
TELECOMMUNICATIONS

March 27, 2001

PAGE 6 of 6

ADJOURNMENT

Adjournment: 7:40 A.M.

REP. AUBYN A. CURTISS, Chairman

ROBYN LUND, Secretary

AC/RL

EXHIBIT (feh69aad)